

Gov. Newsom's conservation order raises more skepticism for farmers and ranchers

At a press conference at an organic farm last week, Gov. Gavin Newsom praised the agriculture industry for its \$50 billion in annual sales. He then signed an executive order to conserve 30% of California's land and coastal waters by 2030, joining 38 countries in the pledge.

The order offers few details on how to accomplish this, and the Natural Resources Agency finds the state may have already met this goal. The order raises more questions as well about the administration's agenda when it comes to pesticides and freshwater flows for threatened fish species. The response from farm groups has been skepticism. The order comes two weeks after Newsom issued an executive order banning the production of diesel tractors and trucks starting in 2035.

“We can't forget about our ranchers, we can't forget about our farmers, we can't forget about agriculture here in the state of California,” said Newsom. “That's California's game that we do better than anybody else.”

Newsom tasked his resource agencies with developing the policy actions on how to accomplish this goal. That report is due in the final months of Newsom's term — a point when the economy is expected to finally



Gov. Newsom signs an executive order on the hood of an electric Ford to ban gas and diesel vehicles.

return to normal and the governor will likely be running for reelection or seeking another office.

Assemblymember Ash Kalra of San Jose attempted to deliver on the “30 by 30” commitment and flesh out the policy through the legislative process. Assembly Bill 3030, however, stalled in Senate Appropriations with heavy opposition from more than 100 groups, including environmentalists, outdoor recreation enthusiasts and a number of farm groups.

They argued “if the state commits to the proposed goals, it will need to identify significant new sources of funding.” **The nonpartisan Legislative Analysts' Office found the costs would be in the range of “several hundreds of millions of dollars or more” and could lead to a decline in property tax revenue for local governments. Like the governor’s order, AB 3030 did not spell out any funding support.**

Powerful construction trade groups argued the bill would restrict "badly needed" housing development.

An Assembly committee analysis found the Natural Resources Agency has inventoried more than 14,000 tracts of land protected by more than 1,000 public agencies and nonprofit organizations. It adds up to nearly 50 million acres, or about 47% of the state. Other estimates found at least 22% of state land is being conserved, leaving just 8% more for Newsom to expand on by 2030.

Another bill the governor’s executive order builds on, AB 2954, did not offer funding support either and eventually died in Appropriations. The bill would have set a goal for sequestering carbon and reducing greenhouse gas emissions in natural and working lands. Yet Democrats were divided over the measure. Sen. Bob Wieckowski of Fremont worried about granting broad authority to the Air Resources Board for carbon sequestration, especially when the cap-and-trade program had “inadequacies” that needed to be addressed.

The California Farm Bureau Federation opposed AB 2954, arguing reliable funding sources were needed. Several bills proposing such incentives grants for conservation projects died during the session, due mainly to the state facing a \$54 billion deficit.

Policy advocate Taylor Roschen explained that to invest in the on-farm practices for carbon sequestration the bill calls for, farmers must see “demonstrable increases in yield or quality.”

Roschen argued some commodities naturally have a greater capacity to sequester carbon, and small farmers have less capital to invest, leaving them at a disadvantage. She has also said the measure leaves out thousands of existing on-farm sequestration projects.

Audubon California, Defenders of Wildlife and the Natural Resources Defense Council, which co-sponsored AB 3030, immediately praised Newsom’s executive order.

“Defenders looks forward to working with the Newsom administration on the implementation of this order to ensure that we are providing enduring protections for biodiversity and real improvements to access for disadvantaged communities,” said Pamela Flick, the California program director for Defenders of Wildlife.

In a statement to *Agri-Pulse*, California Farm Bureau President Jamie Johansson described farming and ranching as “the oldest and best green economy in the world,” explaining how they

are already capturing carbon from the atmosphere while reducing water and energy use and preserving habitat. He was skeptical of the governor's increased use of executive orders as a lawmaking tool.

“We hope the governor’s action may finally provide California farmers, ranchers and loggers a prominent seat at the table when it comes to managing our state’s working lands,” he said. “Actions stemming from this executive order should not intensify the existing regulatory environment that ignores the economic diversity of agriculture and should not favor preservation over the use of renewable resources for public benefit.”

GOP lawmakers immediately chastised the order as broad and bypassing the authority of the Legislature, and raised concerns about vague language in the document.

“There is nothing to suggest the order wouldn't lead to a process whereby the state dictates to growers which crops could be grown in order to maximize carbon sequestration,” said State Senate Republican Leader Shannon Grove of Bakersfield. “Like the ban on gas-powered vehicles, is attacking food producers really a priority right now? We're still fighting a pandemic. Businesses are struggling.”

To conserve the state’s biodiversity, the order tasks CDFA with protecting pollinators and native species while promoting healthy soils. CDFA Secretary Karen Ross described the order as recognizing the “importance of natural and working landscapes to build climate resilience and achieve carbon neutrality,” with solutions led by farmers and ranchers.

The order does not specify how this would be different from CDFA’s current priorities. The Healthy Soils Program was oversubscribed this year, while its budget was slashed due to declining cap-and-trade revenues. Recognizing the importance of soil health, Nisei Farmers League President Manuel Cunha told *Agri-Pulse* the industry is facing greater challenges.

“The current thing is ‘healthy soils, healthy soils,’” he said **“Big deal. I've got a crisis going on with coronavirus.”**



Pamela Flick, California program director for Defenders of Wildlife

CDFA already leads a Bee Safe program and has partnered with industry on the BeeWhere platform to minimize exposures to pesticides and deliver more data on the issue. CDFA has also encouraged industry-led initiatives by the Almond Board of California and other groups in their campaigns to bring bee-friendly practices to growers.

The Department of Pesticide Regulation, meanwhile, has been advancing new restrictions on neonicotinoids to protect bees, and the Department of Fish and Wildlife is in the midst of evaluating protections for native bees.

The order mentions that “California’s rich biodiversity is increasingly threatened” by decreasing water supplies and pledges to advance voluntary and cooperative approaches with stakeholders. Yet AB 3030 drew criticism for not clarifying how the 30% goal would apply to freshwater supplies and if it would require 30% unimpaired flows to the Sacramento–San Joaquin Delta watershed.

The order does not mention conservation easements or farmland fallowed under the implementation of the Sustainable Groundwater Management Act, which will hurt growers with up to one million acres pulled out of production while also presenting new environmental hazards for the San Joaquin Valley.

Newsom signed the order at Sierra Orchards in Winters. Craig McNamara, a Brown administration appointee and former president of the State Board of Food and Agriculture, runs the 450-acre organic farm. It produces mostly walnuts and olive oil and serves as a demonstration space for conservation projects. The farm sources directly to the elite Berkeley restaurant Chez Panisse, run by organic foods advocate Alice Waters.

Newsom has an ownership stake in a corporation that runs organic wineries. He explained his entrepreneurial background — which he routinely falls back on when discussing business issues — at the press conference. He described how he grew the company from a single wine store to a number of hotels and wineries today.

Newsom admired McNamara’s organic practices on the farm.

“Why are there so many more insects pollinating your plants? Why are things a little bit greener, even during these drought years on your property than other properties?” said



Newsom walks with Sierra Orchards President Craig McNamara

Newsom. “It’s around biodiversity, it’s around alternatives to synthetic fertilizers and new strategies on mulching and composting.”

Newsom and Ross have both acknowledged the many concerns Newsom’s ongoing stream of executive orders on climate change have raised in the agriculture industry.

“We’re not going to walk away from agriculture,” said Newsom. “We’re not going to dismiss or deny agriculture’s future in the state — quite the contrary.”

Newsom promised to deliver more executive actions on climate change soon.

Farmers switching to green machines get rare windfall of incentives

State and federal grants are delivering more than \$30 million for incentives to help farmers and food processing facilities in the San Joaquin Valley to upgrade trucks and farm equipment to cleaner models.

The funding comes ahead of the air district’s deadline for the industry to reduce its smog-forming emissions down to 11 tons by 2023 , which is the equivalent of replacing about 12,000 tractors. It highlights an eight-year effort for agricultural groups to research and test ways that yard trucks could go all-electric.

“It is absolutely great. It really is,” said Manuel Cunha, president of the Nisei Farmers League.

The funding—from EPA, the USDA Natural Resources Conservation Service, the Air Resources Board (CARB) and the San Joaquin Valley Air Pollution Control District—added up to about \$20 million for upgrading tractors and other farm equipment and another \$10 million for yard trucks.

The incentives dollars for the voluntary programs allow farmers to upgrade tractors from a bottom tier for emissions standards to the most efficient tier-four category. Larger operations would go from tier three to tier four. They could then sell the used tractors to smaller farmers to trade up from tier zero, creating a chain of air quality improvements across the industry, according to Cunha. He estimated about 8,000 tractors have been replaced this way.

The incentives for yard trucks, or “goats,” would help to transition vehicles for citrus growers, almond hullers and processing plants. This has proved challenging from an engineering perspective. The trucks would need enough clearance to go over grates and drop cages and be able to go long hours without charging during harvest season.

Going away from the packing house presents far more issues for electrification, said Cunha, particularly with driving in fields and up hills. Hauling trailers on the road raised concerns about electric hookups, especially if traveling to another state.

Nisei Farmers League, along with the Western Agricultural Processors Association (WAPA) and the air district, have been working with the airline industry since 2008 to bring their electric aircraft movers to packing plants. That IndyCar design, as Cunha described it, provides more visibility for the operator.



The new funding will make a significant difference in turning over more equipment.

“That was something that we've been interested in a long time,” said Chris McGlothlin, a policy adviser for WAPA. “We've had a lot of conversations about it.”

McGlothlin said an electric yard truck alone would cost more than \$300,000, with the charging station, power, connections and other equipment adding up to “a pretty big price tag.” The EPA funding would provide about 45% of the cost, while a CARB voucher would deliver up to \$150,000, adding up to about \$312,000, though McGlothlin cautioned CARB is not likely to fund each grant to the full level.

“The price tag is the big pill to swallow for a lot of our ag guys,” he said, explaining that many farmers tend to instead get a used truck from a port or airport for just \$50,000. “To really have both of these pools of money combined together on the same piece of equipment that an applicant is applying for, it's significant and it's huge to get that kind of response.”

McGlothlin said the replacements would span about 50 facilities throughout the valley and about 120 pieces of equipment.

Farmers could be hit hard by some aspects of Biden tax plan

Some farmers may have to start preparing for higher taxes if Joe Biden takes office, but much depends on the outcome of the elections — in particular, whether the Democrats also can take the Senate and retain the House, which could provide the party the political boost to make big changes.

Despite the uncertainty, there's still concern that some aspects of Biden's tax plan would threaten the ability of farm families to pass farms down to the next generation.

For example, Biden has indicated a desire to eliminate what's called the “step-up in basis,” which allows inherited assets to get a new tax cost equal to fair market value upon death, instead of on the gains realized since the assets were first purchased.

In a response to questions posed by the American Farm Bureau Federation, Biden did not go into much detail about his tax plan, saying his administration would “work with Congress to implement a fair, permanent tax code that provides certainty to plan for the future, while abolishing incentives that reward companies for offshoring production or avoiding taxes by using tax havens.”



Former Vice President Joe Biden

In addition, he said he would raise the corporate tax rate to 28% and roll back “the Republicans’ massive \$1.3 trillion giveaway to corporations” in order to put small businesses “on equal footing with large corporations.” He and Vice Presidential candidate Kamala Harris also have pledged not to raise taxes on anyone making less than \$400,000 per year. Biden’s tax plan is here and his rural plan is here.

But several analysts have dug deeper into specific proposals, such as Biden’s plan to eliminate a step up in basis on assets.

“Under present law, inherited property receives a full fair market value tax basis,” the financial website [Investopedia](#) notes. “As a result, if the property has appreciated in value since its acquisition by the decedent, the inherent increase in the property’s value as of its owner’s death permanently escapes capital gains tax. If the heir subsequently sells the property, the heir’s taxable gain will be limited to the increase in value over the stepped-up tax basis.”

Put more simply, says Paul Neiffer, a certified public accountant with CLA in Washington state, “Step-up means when you pass away, all your assets get stepped up to fair market value.”

Currently, a farmer who dies with \$5 million worth of assets such as equipment sees those assets get stepped up to fair market value. Under Biden's proposal, if there's a capital gains tax at death, taxes on all \$5 million have to be paid right away, Neiffer says.

“It will be difficult to keep your business or farm in the family if the Biden scheme forces it to be liquidated to pay the death taxes,” Philip DeMuth, author of “The Overtaxed Investor: Slash Your Tax Bill and Be a Tax Alpha Dog,” [wrote](#) in the *Wall Street Journal* in July. “If the gains are forwarded to the next generation, they may need decades of accounting records to establish a cost basis.”

But repealing the step-up in basis “almost exclusively affects taxpayers in the top 20 percent,” the Tax Foundation [says](#).

Biden, says Neiffer, is really going after the super-wealthy, such as Amazon founder and CEO Jeff Bezos, “the billionaires out there that when they pass away, they might pay inheritance tax, but they get a step up in basis,” Neiffer says.

Biden also would try to reduce the Estate Tax exemption from its current threshold of about \$11.6 million to about half that, but that’s not expected to have a big impact on farmers.

But a sharp increase in capital gains and imposing that tax at death could result in a big hit for some growers, Neiffer says, adding, **“There really is nothing about the Biden plan that is helpful for farmers that I can see.”**



Paul Neiffer, CLA

As an example, he cites dairy farmers. **“A lot of them pay capital gains on their raised breeding stock at a very preferential rate of no more than 20%,”** Neiffer says. **“That would suddenly be back to being 39.6% for a top rate.”**

On the other side of the issue, Eric Deeble, policy director of the National Sustainable Agriculture Coalition, acknowledges the concerns about the capital gains increase and the elimination of the step-up in basis, but adds that **there are “a bunch of things that I think get left out of the conversation,”** such as **making more investment capital available in rural communities and reshoring jobs.**

“There’s been an extraordinary amount of disinvestment in rural communities,” Deeble said. “Almost all of the investment, private capital investment that’s happened over the last 10 to 15 years has gone to seven or eight metro areas on the coast.”

“In the ag space, it's a potentially mixed bag," he added, "and obviously, since it would take congressional action to change tax policy, it remains to be seen what [Biden] would be able to accomplish.”

Neiffer says, however, that if Democrats are able to win the White House, retain the House, and retake the Senate, such proposals are “more and more realistic” than they have been in the past. Asked whether Biden might propose tax exemptions to lessen the impact on farmers, Neiffer says “maybe on the farm side there'll be some exemptions. I don't think it's going to be a full exemption” from new taxes.

Deeble also said he didn’t think the long-term capital gains rate increase would affect many farmers because they generally don’t have enough capital gains to qualify for the highest rate, currently 20% for gains above \$496,600 for a married couple filing jointly.

He also says that “any time you start going into tax policy that affects intergenerational transition,” people generally look at what the current landowner will lose.



Eric Deeble, NSAC

But “particularly in an era of hyper-concentrated and consolidated agriculture,” that's not “the entirety of the equation,” he says. “You’ve got to look at all the people who are trying to get into farming.”

But that can’t happen “if there's only a handful of farmers on many tens of thousands of acres. So maybe a tax policy that incentivizes having more smaller folks get into this might actually help to really restore” rural communities, Deeble says.

As for its impact on the election, Biden’s tax plan probably doesn’t make much difference at this point. with voting already begun and more than 90% of voters already decided on their vote.

“This is not going to change anybody's mind one way or another,” Neiffer said.

For her part, Pam Johnson, speaking for the Biden campaign at a Farm Foundation Forum Tuesday, said it's "not true" that Biden would "raise taxes on everybody from day one." She pointed to Biden's pledge to only target tax increases on those making more than \$400,000 per year and also noted the role of Congress in the tax policy discussion.

“We need many things as farmers," Johnson, an Iowa farmer and former president of the National Corn Growers Association, said. "We need tax policy to make it easier for farmers to retire and for new farmers to begin, and we will be paying attention and advocating for all those positions. I think ... to speculate what’s going to be the tax policy or the tax reform in 2023 is speculation.”

How bad is the farm economy? Answers vary, but underlying concerns remain

As his combine rolls across golden cornfields in eastern Kansas, Ken McCauley is enjoying the view and the numbers climbing up on his yield monitor. Bringing in between 260-270 bushels per acre on some fields with prices firming, he's looking at a banner year.

Just a couple of hundred miles north and east, Iowa farmer Ray Gaesser thought by mid-August he was going to have the first loss year on his farm since 1984. But some late summer rains boosted yields and his corn will come in at about 218 bushels per acre, with beans averaging 61 bpa.

Farmers just 15 miles away weren't so lucky with the spotty rains, he reports.

"Their soybean yields are in the 40 bpa and corn ranges from 80-150 bpa. Those yields will not work at all in terms of profitability," he adds. Of course, those hit by the derecho may not have any yields at all and will count on crop insurance to help fill some of the gaps.

In California, A.G. Kawamura says he was "blessed" because the majority of his strawberries and green beans are sold to chain stores — unlike many friends who were dependent on the food service markets.

"For some in the produce industry, it's still a struggle to work your way into a whole different marketing structure," he explains.

In western New York, Craig Yunker also experienced a hot, dry summer.

"Some of our vegetable crops suffered. Soybeans yielded better than expected and corn looks to be OK. Our onion yields were no better than average, but the price is promising," he reports.



Rob Johansson, USDA

There's no doubt that farmers, ranchers and growers across the country have seen dramatic economic swings through most of 2020. Between COVID-19 supply chain disruptions, hogs that had to be euthanized, wildfires, hurricanes, derechos, droughts and uncertainty over export markets, there have been a number of reasons for producers to be nervous about their bottom lines as they near the end of the year and look ahead to 2021.

USDA is predicting that net farm income is on the upswing — based in large part on a huge infusion of government payments. **Based on its September forecast, USDA expects NFI to increase \$19 billion (22.7%) to \$102.7 billion in 2020, after increasing in both 2018 and 2019. Net cash farm income, which includes cash receipts from farming as well as farm-related income and government payments, is forecast to increase \$4.9 billion (4.5%) to \$115.2 billion in 2020.**

Land values are holding strong, interest rates are very low, and debt-to-asset ratios — while increasing — are still near historical lows.

“The debt-to-asset ratio, in aggregate, for the U.S. ag sector is still under 14%. It has been trickling up a little bit over the last couple years, but a modest increase.

Interest prepayment capacity has actually been improving — despite the fact that debt has been increasing we

have seen the effect of those low interest rates and higher net farm income, improving our interest repayment capacity,” USDA Chief Economist Rob Johansson explained during the Kansas City Ag Outlook Forum. (A video of his presentation and panel [discussion is here.](#))

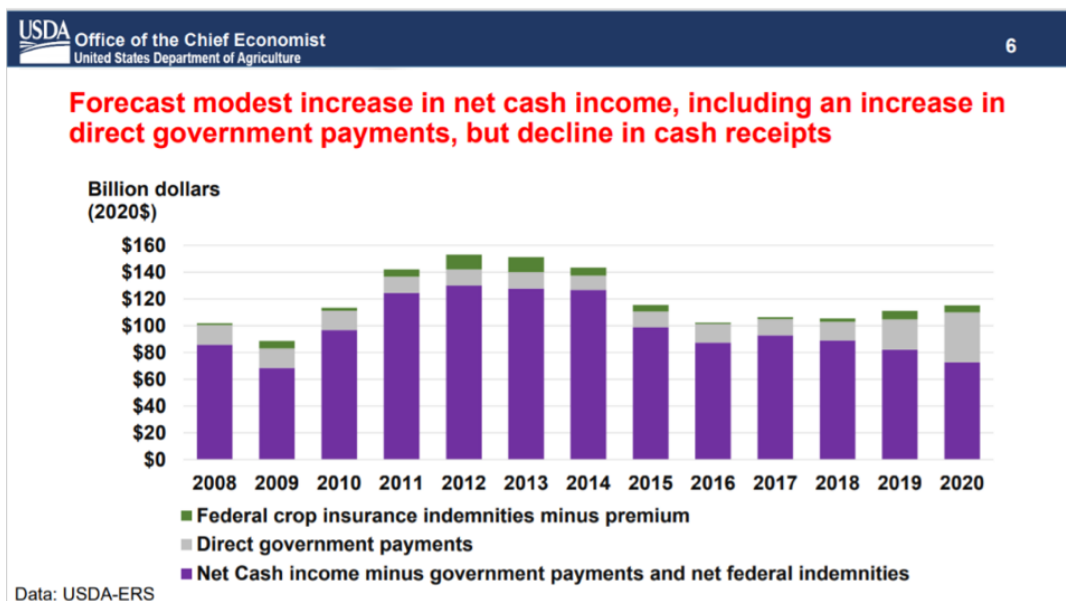
But underlying those numbers are some significant reasons to be concerned about 2021 and beyond.

Still unknown: how COVID-19 will continue to disrupt markets and demand, whether government payments will continue to be robust and whether or not U.S. farmers can pivot to gathering more of their income from the marketplace.

“It bears mentioning how disruptive this coronavirus has been for the U.S. economy, compared to some other shocks to GDP growth in the United States. Just looking at the financial crisis from 2007 compared to the unemployment that we saw with coronavirus, it's quite dramatic,” Johansson added.

He pointed out how much spending power the globe has lost over the past year, with commodity prices reflecting that for most of the year. At the same time, he noted that we are seeing a recovery, even though we don't know what's going to happen with the coronavirus in the fall.

“We have seen a tightening situation with respect to cash receipts for farms. On the other hand, we have seen a lot of government payments going out, that has driven net farm income and net cash income, higher over the last couple years,” Johansson said.





John Newton, Farm Bureau

John Newton, Chief Economist for the American Farm Bureau Federation, broke down the numbers a bit further when he spoke during the Kansas City event.

“When you deconstruct USDA’s farm income forecast from September, NFI jumped 19% to \$103 billion, but \$37 billion is through federal support payments. The cash receipts — money from the marketplace — actually declined by \$12 billion.

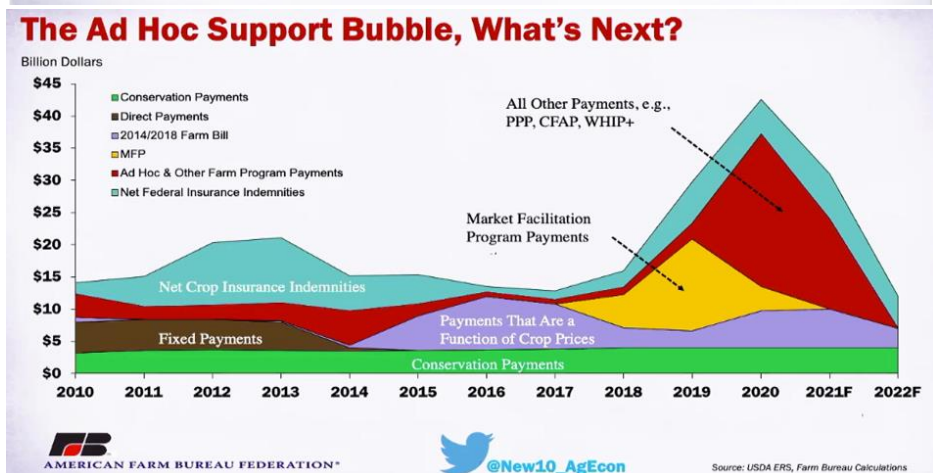
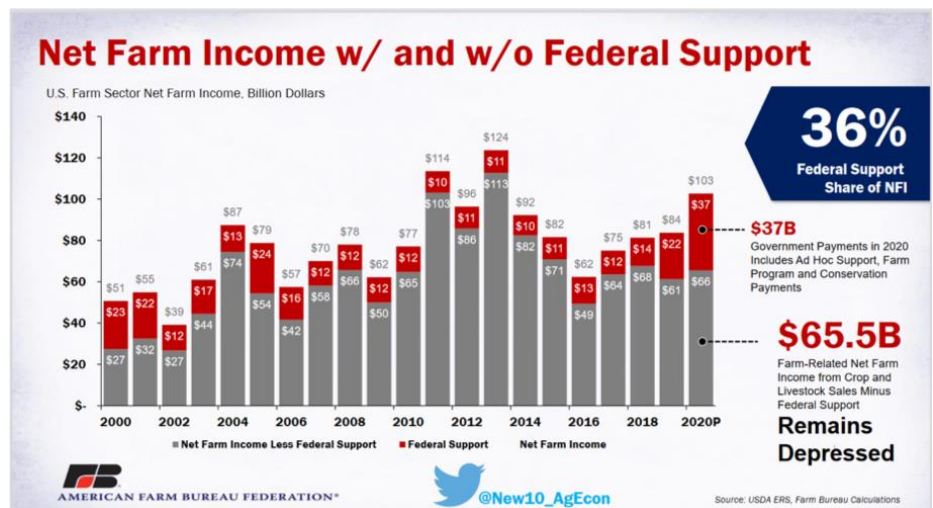
“Cash receipts from crop and livestock sales are the lowest they’ve been since 2010. So that creates a pretty

challenging farm economy.”

“Seeing 36% of our net farm income come from government payments will not be sustainable. We need to figure out how do we get to the other side of this,” Newton emphasized, while asking: “How do we get back to getting our money from the market? How do we see and sustain higher commodity prices? Where is the next ethanol?”

Policy expert Brad Lubben, an extension associate professor at the University of Nebraska-Lincoln, agrees that the broader outlook for 2021 is more complex.

“The recovery in crop prices is rewarding those that lag in their price risk management strategies, but it definitely is helping cash flow this fall and presumably lowering expectations of farm program payments to come next fall (2020 crop payments in October 2021),” noted Lubben. “The higher crop prices together with CFAP, CFAP2, and (Prevent Plant) payments have provided a significant amount of cash flow.



The assistance of the last three years has helped push farm income higher each year since the low of 2017, he added.

“That also means it has pushed off some of the difficult economic decisions that would need to be made in response to lower prices, including production decisions, equipment investment, and land values. Barring further assistance next year, the real cash flow crunch could come in 2021 even if market prices are modestly higher.”

Lubben says livestock producers are also looking at stronger commodity prices and improved trade prospects, “so there is some optimism, although they arguably have had to dig out of deeper holes this year with demand losses (export and high-end restaurant trade) and supply chain disruptions,” Lubben said.

He added that **“there is much more concern in livestock circles than in crops as to market performance and the role of risk management.** The recent substantial increases in federal subsidy levels for LRP insurance does provide yet another tool to livestock producers but doesn’t guarantee it will solve the challenges.”

For both crops and livestock, **“the short run may be about managing risk and volatility, but the long run is always about price and costs.**

“Producers can look to improved trade prospects due to hoped-for fulfillment of the various agreements implemented in 2020, particularly with Japan and China. That offers some price strength, but doesn’t negate the ability of U.S. and other global producers being able to ramp up production,” Lubben emphasized. “Ultimately, producers are faced with the eternal challenge of controlling costs and improving efficiency. That is not a new story, but is still the underlying reality.”

Prospects for farm labor reform may ride on election

Farm groups that have been appealing to the federal government for years to address a labor shortage could finally see some action from the next Congress should Democrats win control of the government, but any expansion of access to foreign labor will likely come with strings attached.

Vice President Joe Biden and running mate Kamala Harris, a California senator, also are promising to provide new protections for farmworkers, including mandatory overtime and protections from high temperatures.

Meanwhile, farmers also could see some action from the Trump administration in coming weeks in the form of changes to the wage-setting process for H-2A workers; the Labor Department has yet to finalize a broad set of reforms to the program that were proposed in 2019.

The department’s rule has taken on increasing importance after the Agriculture Department announced it was discontinuing a farm labor survey DOL used to set the regional minimum wages farms must pay H-2A workers. The department needs to establish a new method of setting the wages, known as the Adverse Effect Wage Rate, or farmers will only have to pay the federal or state minimum wages.

Farm lobbyists who are following the issue say they don’t know what the Labor Department is going to do about the wage rate, or when. **“We can expect that the final rule will provide more details of what to expect for 2021,” said Allison Crittenden, a director of congressional relations for the American Farm Bureau Federation.**

Meanwhile, Biden has promised to make comprehensive immigration reform an early and top priority of his administration if he wins election in November, and Democrats are expected to try to include provisions of the House-passed Farm Workforce Modernization Act, which passed the House 260-165 in 2019.

That bill, which had the support of several major farm groups, included provisions to make H-2A available for year-around workers on a limited basis. The measure also would provide undocumented farmworkers a path to legal status.

Democrats also may try to pass a sweeping new economic stimulus package if Biden wins the White House, and some progressives would like to see immigration reform included in the bill. Their argument is that many illegal immigrants have been serving as essential workers, including in agriculture, throughout the COVID-19 pandemic.



Farm workers picking apples. Photo courtesy USDA.

Lia Parada, director of government affairs for the Center for American Progress, a liberal think tank, said the FWMA is one of the measures being considered for early action in a Democratic Congress. **FWMA “has been vetted. There has been bipartisan support. It’s very popular,” she said.**

If Democrats win control of the Senate and retain control of the House, they’ll be in a much better position to pass immigration reforms than they were the last time they tried it in 2012. A comprehensive bill, which included a number of provisions negotiated by ag groups and the United Farm Workers, passed the Senate but died in the House, then controlled by Republicans, and never made it to then-President Barack Obama’s desk.

A farm group lobbyist who has been involved for years in H-2A reform efforts said in an email to *Agri-Pulse* that a Biden administration would likely **“be more amenable to a ‘positive’ immigration reform agenda”** but that passing H-2A reforms will require bipartisan support.

The lobbyist, who didn’t want to be identified, **said it will take support from both Republicans and Democrats to address the farm labor shortage. Democrats traditionally will support legalizing existing farmworkers, while Republicans are more supportive of expanding H-2A. “It will take some of both to succeed, particularly in the Senate,” the lobbyist said.**

The FWMA was supported by about 300 national, state and local farm groups, including the National Council of Agricultural Employers, National Council of Farmer Cooperatives, National Farmers Union, National Milk Producers Federation, United Fresh Produce Federation and Western Growers Association.

But AFBF withheld its support for the bill, saying it didn't do enough to reform the H-2A wage requirements and would allow H-2A employees to sue farms for allegedly unfair treatment. The Senate has never taken up the bill.

As for President Donald Trump, it remains to be seen whether he would be more supportive of compromise farm labor reforms if he wins reelection, the lobbyist said.

Responding to a Farm Bureau survey, the Trump campaign held out the prospect of addressing farm labor issues in a second term but linked its support to border security.

“Immigration reform must secure our borders and also ensure our system works for our economy, including making sure farmers have access to the labor they need. The Trump/Pence Administration is eager to work with Congress to finally deal with all these issues, and we think there will be opportunity to do just that in a second term,” the Trump campaign said.

H-2A reforms that the Trump administration proposed addressed some concerns that farmers had about the program but raised new issues. **A plan to restructure wage requirements so there would be different rates for supervisors than field workers was met with criticism by some farm groups. AFBF's Crittenden said it could wind up increasing labor costs.**

Even if Democrats win the White House and control of Congress, passing immigration reform wouldn't be a slam dunk.



President Donald Trump

Senate Republicans could potentially block a stimulus package or immigration reform bill, unless Democrats abolish the filibuster. Democrats, who now control 47 Senate seats, are highly unlikely to win anywhere close to the 60 they would need to break a filibuster.

Parada, who worries it will be more difficult than in the past to find GOP support for immigration reform, says another option for Democrats is to move the stimulus package through the budget reconciliation process. Reconciliation measures need only a simple majority to pass the Senate, but provisions can't be included unless they change spending or revenue.

Sara Neagu-Reed, associate director of federal policy for the California Farm Bureau Federation, said getting immigration provisions in a stimulus is “a bit of a far reach” unless the sponsors are working with Republicans.

It's also not clear how a Biden administration would carry out his pledges to increase protections for farmworkers, who have received increased public attention this year because of coronavirus outbreaks on farms. Mandating that farms pay workers overtime would require action from Congress. Farms have an exemption under the Fair Labor Standards Act.

Harris is sponsoring legislation called the Fairness for Farm Workers Act that would require overtime for farm employees who work more than 40 hours a week. She also

introduced a bill recently that would require the Occupational Safety and Health Administration to set standards for measures such as paid breaks in cool spaces, access to water, and limits on the time a worker can be exposed to heat.

Hemp industry looks to overcome CBD regulatory headwinds

Hemp industry stakeholders are pushing for regulatory certainty as one of the crop's chief byproducts gains in popularity with a curious consumer base.

Viewed as a miracle product by many consumers, cannabidiol, or CBD, one of the newest ingredients being used in dietary supplements, has run into headwinds. A seizure-reduction drug, COVID-19, a patchwork of state legislation, false advertising, and even adulteration of products have intensified the industry's push to regulate CBD's use in dietary supplements, allowing products that contain it to be freely sold in all 50 states.

According to the U.S. Food and Drug Administration (FDA), firms are prohibited from marketing hemp-derived CBD as a dietary supplement under the Food and Drug Cosmetic Act (FDCA). CBD's legal status as a dietary supplement under state laws varies considerably, from totally illegal to totally lawful.

In early September, Rep. Kurt Schrader (D-OR) and Rep. Morgan Griffith (R-VA) introduced H.R. 8179, The Hemp and Hemp-Derived CBD Consumer Protection and Market Stabilization Act of 2020, in the House of Representatives. As of last week, the bill had 16 co-sponsors, but a companion bill had not yet been introduced in the Senate.

The bill would provide a legal pathway for hemp-derived CBD to be federally regulated as a dietary ingredient under the FDCA and provide those manufacturing the products 90 days to comply with FDA regulations, according to Jonathan Miller, attorney with Frost Brown Todd and lead counsel for the U.S. Hemp Roundtable, a lobbying association representing dozens of hemp firms and associations. Regulating CBD's use in dietary supplements would also hold CBD firms accountable for following all regulations.

Rod Kight, a cannabis/hemp attorney in North Carolina, notes that the issue with CBD arises out of the FDCA's Drug Exclusionary Rule (DER). "According to the DER, an article, such as CBD, may not be marketed as a dietary supplement if it has previously been approved as a drug," Kight says. "Epidiolex is a CBD medication that has been approved as a drug, and the FDA has determined that substantial clinical investigations involving it were instituted prior to CBD being marketed as a dietary supplement."

Because FDA has already determined that the DER applies to CBD, it cannot legally be marketed as a dietary supplement. "The reason why H.R. 8179 is being submitted is an attempt to override the DER as it relates to marketing CBD as a dietary supplement by creating a specific statutory exemption for CBD. This is highly unusual," Kight says.

While most CBD companies are already abiding by FDA regulations, a minority of firms are mislabeling their products with false health claims, and a smaller number are selling substandard or adulterated products. According to Ashley Simpson, counsel with Hoban Law Group, **claims not allowed by FDA for any dietary supplement include statements like "relieves pain caused by cancer" or those that indicate that an ingredient helps to treat diseases such as cancer, fibromyalgia, arthritis, or Alzheimer's.**

Simpson also notes that structure/function claims — “vitamin D helps build strong bones” and “vitamin C helps support the immune system,” for example — are not allowed and will not be until such claims have been proven through rigorous research and CBD has been approved as an ingredient used in dietary supplements.

Kight notes that if enacted into law, H.R. 8179 would authorize the use of structure/function claims about CBD dietary supplement products, provided the claims are substantiated and otherwise allowed.



Rod Kight

Because ingredients used in dietary supplements are already heavily regulated, regulating CBD could be fairly straightforward. “If our bill passes, all the FDA has to do is apply the current regulations for dietary supplements to CBD,” says Miller. “Most CBD manufacturers are already complying with FDA regulations for dietary supplements.”

Brandon Beatty, CEO and founder of Bluebird Botanicals and a director of the U.S. Hemp Roundtable, says as far as labeling goes, the industry is battling two main issues: ignorance on the part of some new entrants; and purposeful mislabeling used to gain a competitive advantage in the marketplace.

“A lot of companies entering the CBD hemp industry are selling products as dietary supplements. These are new entrepreneurs who have no experience in the food supplement industry. A lot of requirements are not known by these companies,” Beatty says. “But some companies are purposefully mislabeling their products and some products have no cannabidiol in them.

“A portion of companies are cutting corners on purpose, so their cost of goods is much less than their competitors’,” he added. “This is false advertising and it gives the entire industry a black eye. Responsible companies need to rise to the top and raise the bar.”

FDA has been working on CBD enforcement policy for several years. In late July, the agency sent the White House Office of Management and Budget (OMB) draft guidance titled “Cannabidiol Enforcement Policy” for review. Since the document has not been made public, it is unclear whether the guidance is claims-based, serving-sized based, product standards based, a combination of these, or something entirely unrelated.

A lack of safety data has also prevented FDA from approving the free commerce of CBD products in the United States. In early July, FDA sent the Sampling Study of the Current Cannabidiol Marketplace to Determine the Extent That Products are Mislabeled or Adulterated to the House and Senate appropriations committees. The study, a response to a clause in a December 2019 continuing resolution, showed that out of 147 products tested, nine did not contain CBD. While seven of these clearly indicated “zero CBD” on their labels or did not indicate the product contained CBD, two products that listed CBD on their labels contained none.



Brandon Beatty, Bluebird Botanicals

The report further states that out of 102 products that indicated a specific amount of CBD in their product, 18 contained less than 80% of the amount indicated, 46 contained CBD levels within 20% of that indicated, and 38 contained more than 120%. In addition, 72 of the products tested contained measurable levels of THC, the main psychoactive compound in cannabis, potentially making them illegal to sell in many states. FDA also detailed plans for long-term sampling.

Simpson doubts that Schrader and Griffith’s bill would miraculously eliminate false claims on labels of some CBD products if the legislation were to be enacted because rules against false advertising already exist. She says every year, FDA issues a host of warning letters to companies falsely marketing hemp-derived CBD products.

Industry sources argue many hemp farmers and CBD companies have been struggling due to the failure of the FDA to regulate CBD, which would not only make them legal to sell nationwide but also result in the products being properly labeled, deemed safe, and prepared using best manufacturing practices. At the same time, though, CBD companies have also been suffering from a slowdown in sales growth due to the COVID-19 economy and an overly saturated market.

A recent study by Leafreport shows that CBD product prices have fallen 17%, compared to a year ago. The report notes “perhaps the most startling discovery is that 70% of brands lowered their prices in 2020 to some degree. This confirms that there is plenty of supply on the market, creating fierce price competition among brands.”

The U.S. Hemp Authority, a sister organization of the Hemp Roundtable, developed a voluntary certification program for hemp and CBD products that uphold stringent regulatory standards through third-party independent auditing. Since the program was established in late 2018, 50 companies have been awarded the certification seal, which they can display on their products.

H.R. 8179 is part of an ongoing effort to find a path forward on hemp and its derivatives after legalizing them in the 2018 farm bill. A similar bill, H.R. 5587, was introduced in the House in January 2020 to amend the FDCA Act to include CBD in the definition of dietary supplements and directs USDA to complete a study on market and regulatory barriers faced by farmers wanting to participate in the hemp production program.

Dairy industry partners with video game industry to reach Gen-Z

Dairy Management Inc. has entered into the world of gaming to target Generation Z with a virtual display of how a dairy farm works toward sustainability while also working toward profitability. **“Ninety percent of Gen Z play [video] games ... Minecraft is the game we are focused on,”** said DMI’s CEO Tom Gallagher, noting the game’s **“even participation from boys and girls.”**

DMI’s goal is to help show how dairy farmers are working toward sustainability on their farming operation in a way that is environmentally minded but economically viable for the farmers.

“Sustainability needs to be profitable ... because without profitability there could be no sustainability and without sustainability, the dairy farmers and the dairy industry, we believe, will be subject to very pejorative regulations,” Gallagher added. "If we're proactive and continue to do the great work that farmers have done over the years to be sustainable and profitable, we think we can win with the consumer, we can win with regulatory groups, and avoid those kinds of pejorative regulations.”

Some of the gaming influencers working with DMI are: Jimmy Donaldson, who goes by "Mr. Beast" on social media and has a total reach of 71.2 million followers; Brianna Arsement-Barnhart, known as "Brianna Playz" on YouTube who has a total reach of 6.9 million followers; and Preston Arsement, known as "Preston Playz" with a total reach of 35.6 million followers.



Online influencer Jimmy "Mr. Beast" Donaldson (Photo: Twitter)

Each influential gamer will be invited to take a virtual tour of a different dairy operation around the country that showcases different sizes of dairy farms and different sustainability practices. Each farm selected is uniquely different to showcase different industry features such as robotic milkers and ice cream or cheese production.

After the virtual tour, the gamers will take the information they learned on the tour and re-create the dairy farm in Minecraft. The gamers have built their following on social media by posting videos on their YouTube channels of the things they build in the game.

“They may challenge each other on who can build the best dairy farm or they may challenge their followers to build dairy farms of their own ... the goal is for them to engage in that sustainability story and how dairy farmers are working really hard to bring a nutritious sustainable product to that audience,” said Joanna Hunter, executive vice president of communications at DMI.

Colorado dairy farmer Aric DeJager is one of the farmers who will be highlighted on the virtual farm tour. DeJager owns Icon Holsteins and uses a robotic milking system on his farm.

“I haven't played video games in a while. I guess I just started a dairy so perhaps that's why, but I do know how popular it is among young people ... they like to play this game themselves but they like to watch other people do it, so I think **when they see Mr. Beast build a dairy on Minecraft ... it's huge. You got 40 million kids watching Mr. Beast build a dairy, I think that's a pretty good way to get the word out,**” said DeJager noting his nephew is a big fan of the YouTube gamer. In the next two weeks, the gamers will be viewing the virtual farm tours and will start to create and post content for their followers.

DMI is also looking into other game-related promotions, including the Madden NFL video game. Other ag groups have tried to use video games to reach a younger audience, including the American Farm Bureau Foundation's [My American Farm](#) project.

News Briefs:

Plenty, Driscoll's to partner on indoor strawberry growth. A leading berry producer and an innovator in indoor food production are joining together to produce strawberries in a

controlled environment. Driscoll's, a global leader in berry production, and Plenty, a farming technology company specializing in indoor vertical farming, announced a partnership this week to grow strawberries indoors. According to Plenty, the company's indoor production system "will remove the unpredictability of Mother Nature, allowing both companies to meet the future needs of consumers worldwide, including geographical locations that are not hospitable to growing strawberries." Driscoll's Chairman and CEO J. Miles Reiter pointed to the efforts of both companies as reasons for the new partnership.

"As one of the few berry companies with a dedicated global R&D program, we believe our proprietary berries, which are focused on flavor, combined with Plenty's technology leadership will create a competitive market edge as we expand to more effectively meet the future consumer," he said. According to Plenty, its indoor farming platform has shown over 700% yield improvement in leafy greens in the last 24 months. The Driscoll's strawberries will initially be grown and developed in Plenty's Laramie, Wyoming, farm.

Program to recognize fruits and vegetables in school lunches. A major trade association is taking steps to recognize the efforts of school lunch programs that encourage fruit and vegetable consumption in their meals. The United Fresh Start Foundation is celebrating National School Lunch Week – currently underway – by calling attention to school districts that continue to offer a wide variety of fresh fruit and vegetable choices for students, despite challenges posed by COVID-19.

Andrew Marshall, director of foodservice and foundation partnerships for the United Fresh Produce Association, said the effort will focus on "highlighting schools that are making fresh produce options a priority through on-trend, visually appealing salads, produce-centric main dishes and sides. "We also are celebrating school nutrition leaders who are committed to maintaining the fruit and vegetable serving requirements, ensuring children throughout their communities have access to a variety of fresh produce," he added. The effort will use interviews posted to social media with school nutrition professionals from Arizona, California, Florida, Georgia, Oklahoma, and New York City.

The organization also called out USDA's recent announcement of extended waivers for school lunch programs through the end of 2021 and said it will "continue offering support to schools on sourcing, serving and promoting fresh produce to students."

New initiative to flag 'climate-friendly' menu items. A new effort from the World Resources Institute is designed to identify dishes with a lower carbon footprint on restaurant menus. A new "Cool Food Meals" badge will identify dishes in line with what WRI research "finds is needed by 2030 to meet the Paris Agreement on climate change," the organization noted in a release. "People are becoming more aware of climate change and its effects, but many still don't know what they can do about it. Cool Food Meals helps people understand that taking action is as simple as what we eat," said Daniel Vennard, director of sustainable diets at WRI. "A busy parent or a college student — absolutely anyone — can now go into a restaurant and by choosing a Cool Food Meal, they are part of a growing group of people who are building a climate-friendly lifestyle." Using a dish's ingredients list, WRI calculates a dish's carbon footprint by analyzing the emissions from the agricultural supply chains and the land used to produce the meal. If a dish's carbon footprint falls below an established per-meal threshold and meets a nutrition safeguard, it is approved as a Cool Food Meal. Panera Bread is the first company that will display the badges on its digital menu, website, and mobile app beginning Wednesday. According to the company, 55% of its entrees are certified as "Cool Food Meals."

Report: Grass-fed beef market could grow by \$14B by 2024. A new report suggests the grass-fed beef market is poised to grow by about \$14 billion over the next four years on high demand and consumer desire for the product’s purported health benefits. The report was conducted by Technavio, a London-based technology research and advisory company. The boost in demand is largely due to the health characteristics of the product, the company noted in a release accompanying the report. “The awareness of the health benefits of grass-fed beef such as higher content of omega-3 fatty acids linoleic acid and antioxidant vitamins like vitamin E fuel its demand in the US, Australia, and other markets. This consequently adds to the revenue, thus boosting the grass-fed beef market growth,” the company said. According to Technavio, North America accounted for the largest grass-fed market share in 2019 and offers “several growth opportunities” through 2024. The merits of grass-fed beef, and the health benefits compared to grain-fed beef, remains a hot topic in the U.S. beef industry. While most American beef production is finished on a grain-based diet, much of the production elsewhere in the world is grass-fed.

Farm Hands West: Djordjevic joins UC Davis Seed Biotechnology Center

Jovan Djordjevic has joined the UC Davis Seed Biotechnology Center as the new education director. Djordjevic brings 20 years of experience previously working for companies such as Monsanto, Bayer, and BASF. He most recently led Cucurbits breeding and research teams as well as developed crop strategies as BASF’s Global R&D Team Lead.



Jovan Djordjevic

Ocean Mist Farms has hired **Jesse Lopez** as commodity account manager. Lopez previously was a senior account manager and director of business development with Tanimura & Antle for the last 15 years.



Aimee Smith

Highland Ag Solutions has brought on **Aimee Smith** as sales manager, based in Ventura, Calif. She most recently worked at Mission Produce as a grower relations manager.

Luke Chandler has been named John Deere’s managing director for Australia and New Zealand and will relocate to Australia. Chandler previously served as the chief economist for Deere & Co. based in Moline, Ill. He has been with the company for five years and before that was with Rabobank.

Katie Farmer will become BNSF Railway’s new president and CEO, effective in January. Farmer has been with the company for 28 years and previously served as the executive vice president of operations. Current CEO **Carl Ice** will be retiring at the end of the year and will remain on the board of directors.

The National Biodiesel Board has tapped **Floyd Vergara** to be the new director of state regulatory affairs. He succeeds **Shelby Neal**, who held the position for the past 12 years. Neal will be departing NBB Oct. 16 and will head to Darling Ingredients to serve as the company's vice president for renewables and energy policy. Vergara will assume Neal's leadership position following his departure. Vergara most recently served as the chief of the industrial strategies division and assistant chief of the research division for the California Air Resources Board. He was with CARB for 32 years before joining NBB. In November 2019, Vergara opened NBB's West Coast office.



Floyd Vergara

Frank W. Naylor Jr. passed away on Oct. 6. He was 81. Naylor started his career by joining the U.S. Navy in Vietnam and went on to hold many public office leadership positions in the agriculture community including: chairman of the Farm Credit Administration, undersecretary of agriculture, acting secretary of agriculture, administrator of the Farmers Home Administration, and deputy administrator of the Federal Crop Insurance Corp. In the private industry, Naylor helped with agriculture development on a global scale with The Peoples Group. According to his obituary, Naylor had a passion for traveling, valued community service, and was an avid gardener.

Best regards,

**Sara Wyant
Editor**

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